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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,949	09/16/2003	Roswell J. Ruka	2003P07614US	3856

7590 03/13/2009  
Siemens Corporation  
Intellectual Property Department  
170 Wood Avenue South  
Iselin, NJ 08830

EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 03/13/2009

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10663949	9/16/2003	RUKA ET AL.	2003P07614US

EXAMINER

KEITH WALKER

ART UNIT

PAPER

1795

20090311

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

## Commissioner for Patents

The Appeal Brief filed 5/6/08 has been remanded by the Board of Patent Appeals and Interferences for being defective. The Appeal Brief is defective and returned to the applicant for the following reasons:

Appellant has not appealed all rejected claims. Specifically, a review of the Grounds of Rejection on the record finds that rejections are outstanding for the following pending claims: 5-15 and 18. The rejected claims that have not been appealed and/or argued for appeal are claims 1-4 and 16-17. The outstanding pending claims (5-15 and 18) on appeal are all dependent claims which depend upon the rejected claims that have not been appealed (claims 1-4 and 16-17). Correction is required.

The Board of Appeals and Interferences (Board), in *Ex parte Ghuman*, <http://www.uspto.gov/web/offices/dcom/bpai/prec/rm081175.pdf> (BPAI May 14, 2008) (precedential), held that in appeals where rejected claims are expressly withdrawn, or are implicitly withdrawn by not presenting arguments in support of patentability, the Board will remand (or return) the application to the Examiner with instructions to cancel the expressly or implicitly withdrawn claims. See also Manual of Patent Examining Procedure (MPEP) § 1215.03 (8th ed. Rev. 6, Sept 2007).

Accordingly, it is ORDERED that the application is returned to the Examiner:

- 1) to notify Appellant to file an amendment canceling claims 1-4 and 16-17, and to have the remaining claims on appeal (5-15 and 18) rewritten in independent form.
- 2) upon entry of amendment, to return the application to the Board for the consideration of appealed claims.

/PATRICK RYAN/  
Supervisory Patent Examiner, Art Unit 1795